

CHAPTER 25. ZONING.

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CHAPTER 25. ZONING.

DIVISION A. IN GENERAL.

Article VI.B. Wireless telecommunication facilities.

§ 25-68. Purpose.

The purpose of this article is to provide wireless telecommunications service to the citizens throughout Augusta County by regulating the placement, construction, and modification of towers and base stations, and to promote and encourage collocation on existing telecommunication towers or base stations, and to minimize the proliferation of towers in the County.

§ 25-68.1. Applicability.

All new wireless telecommunications facilities over one hundred ninety-nine feet (199') in height, and those that cannot meet the Administrative Permit regulations, and any collocations that involve a substantial change to the existing structure may be permitted only by the issuance of a Special Use Permit by the board of zoning appeals pursuant to the provisions of this article. Collocation on existing wireless telecommunications facilities and new facilities less than one hundred ninety-nine feet (199') in height may be permitted upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of this chapter.

§ 25-68.2. Definitions applicable to this section.

Base station. A structure or equipment at a fixed location that enables licensed or authorized wireless communications between user equipment and a communications network. The term does not include a tower. The term includes, but is not limited to, a building, clock tower, bell steeple, sign, utility pole, water storage tank, silo and other similar mounting structures that may be used for the purpose of supporting and obscuring the presence of antennae.

Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Eligible support structure. A tower or base station as defined in this section, provided it is existing at the time the application is filed with the local government, which is eligible for collocation.

Existing. A constructed tower or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process. A tower that has not been reviewed and approved because it was in an area not requiring zoning approval when it was built, but was lawfully constructed, is existing for the purposes of this definition.

Height, structure. Telecommunications support structure height shall be measured from ground level (finished grade) to the top of the structure. Measurement of tower structure height for the purpose of determining compliance with the requirements of this article shall include the structure, foundation, and any facilities attached thereto which extend above the top of the structure.

Site. The current boundaries and any access or utility easements of the leased or owned property surrounding the tower.

Substantial change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

A. For existing towers not in the public rights-of-way:

1. An increase in the height of the tower by more than 10% or by the height of one additional antenna array with the separation from the nearest existing antenna not to exceed twenty feet (20'), whichever is greater, or

2. The addition of any appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet (20'), or more than the width of the tower at the level of the appurtenance, whichever is greater, or

3. Any excavation or deployment outside the current site, or

4. It would defeat the concealment elements of the structure, or

5. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, however, this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the Code of Federal Regulations CFR 47, Chapter 1, Subchapter A, Part 1, 1.40001(b)(7)(i) through (iv).

B. For base stations not in the public rights-of-way:

1. An increase in the height of the structure by more than 10% or more than ten feet (10'), whichever is greater, or

2. The addition of any appurtenance that would protrude from the edge of the structure by more than six feet (6'); or

3. The installation of more than four (4) new equipment cabinets; or

4. Any excavation or deployment outside the current site, or

5. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, however, this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the Code of Federal Regulations CFR 47, Chapter 1, Subchapter A, Part 1, 1.40001(b)(7)(i) through (iv).

C. For towers or base stations in the public rights-of-way:

1. It involves installation of any new equipment cabinets on the ground if there are no existing cabinets associated with the structure, or involves installation of ground cabinets that are more than 10% larger in height or overall volume than existing cabinets, or

2. Any excavation or deployment outside the current site, or

3. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, however, this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the code of Federal Regulations CFR 47, Chapter 1, Subchapter A, Part 1, 1.40001(b)(7)(i) through (iv).

Support structure. Any tower or base station as defined in this section.

Tower. Any structure built for the sole or primary purpose of supporting any authorized antennas and their associated facilities, including structures that are constructed for wireless communication services.

Wireless telecommunication facilities. Towers, base stations and other structures utilized to house or support antennae and related equipment for radio, television, microwave, cellular phone, digital phone, wireless internet, and other wireless communications services. Non-commercial television or internet antennae and amateur radio antennae are accessory uses to a dwelling and are not governed by this section.

§25-68.3. Use of consultant.

The County reserves the right to employ the services of a telecommunications consultant to review all applications. All applicable costs will be the responsibility of the applicant. All recommendations of the consultant must be met in order to obtain an Administrative Permit. The recommendations of the consultant will be considered by the board of zoning appeals in making their decision as to whether or not to issue a Special Use Permit for a wireless telecommunications facility.

§ 25-68.4. Uses permitted by administrative permit.

The uses listed in this section shall be permitted within the General Agriculture, General Business, and General Industrial zoning districts only upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of ARTICLE LVI of this chapter.

In the residential zoned districts, the only permitted wireless telecommunication facilities will be the installation of antennas and equipment on base stations upon the issuance of an Administrative Permit by the Zoning Administrator pursuant to the provisions of ARTICLE LVI of division I of this chapter. Administrative Permits are to be issued only for facilities where the applicant can demonstrate that the proposal meets the standards required by this chapter and the facility will not have an undue adverse impact on the surrounding neighborhood.

A. Collocation of antennas on existing tower structures.

The collocation of antennas on existing tower structures may be permitted by Administrative Permit provided it does not result in a substantial change to the tower or structure, or expansion outside the existing site provided that:

1. Proposed alterations will not require the tower to be lighted. Lighted towers require a Special Use Permit.
2. Three (3) copies of a wireless facilities plan are submitted meeting the requirements of ARTICLE LXVII, "Site Plan Review" of this chapter including latitude and longitude, a description of the lot lines, site elevation view of the structure showing the height of the existing tower and that the collocation will not extend the overall height more than 10% or twenty feet (20') whichever is greater, or the addition of any appurtenance to the body of the tower would protrude from the edge of the tower more than twenty feet (20'), the height and location of existing and proposed antennas, compound details showing existing and proposed equipment shelters, landscaping, screening, access, parking, security, and a statement that the structure will not be lighted shall be submitted at the time of application for an Administrative Permit. Comments received from applicable agencies will be provided to the Zoning Administrator before any permit is granted.
3. Antennas and ancillary equipment collocated on an existing tower shall be of a color that is identical to, or closely compatible with, the color of the structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. Written, technical evidence is provided from a professional engineer that the existing or proposed structure meets structural integrity standards.
5. No signs other than those listed below may be placed on the tower structure or other components comprising the wireless telecommunications facility unless required by the Federal Communications Commission (FCC):
 - a. A sign is required displaying the facility owner's name, address, Federal Communications Commission (FCC) antenna support registration number and emergency contact phone number. The sign shall not exceed four square feet (4 sq. ft.) in size and shall be located on the security fence or other approved location.

b. Signs warning of electromagnetic energy emissions shall be posted at wireless telecommunication facilities pursuant to Federal Communications Commission (FCC) regulations.

6. No advertising of any type may be placed on the tower structure or other components comprising the wireless telecommunications facility unless the advertising was pre-existing on an alternative telecommunication structure.

7. The applicant will provide a copy of the Federal Aviation Administration (FAA) hazard determination report and documentation that the request presents no hazard to any airport, National Environmental Policy Act of 1969 (NEPA) documentation.

8. If the applicant is not the owner of the property, the application shall be accompanied by the written consent of the owner.

9. The applicant will provide a bond for the removal of abandoned tower structures if one is not on file for the existing site.

B. The installation of antennas and equipment on base stations.

The installation of antennas and equipment on base stations may be permitted by Administrative Permit provided the overall height of the structure shall not be increased by more than ten percent (10 %) of the height of the existing structure or more than ten feet (10') whichever is greater and the addition of any appurtenance to the body of the structure would not protrude more than six feet (6') from the edge of the structure provided that:

1. Proposed alterations will not require the tower to be lighted. Lighted base stations require a Special Use Permit.

2. Three copies of a wireless facilities plan are submitted meeting the requirements of ARTICLE LXVII, "Site Plan Review" of this chapter including latitude and longitude, a description of the lot lines, site elevation view of the structure showing the overall height of the structure does not increase more than ten percent (10 %) or more than ten feet (10') whichever is greater, the addition of any appurtenance to the body of the structure would not protrude more than six feet (6') from the edge of the structure, the height and location of existing and proposed antennas, ground details showing existing and proposed equipment shelters, landscaping, screening, access, parking, security, and a statement that the structure will not be lighted shall be submitted at the time of application for an Administrative Permit. Comments received from applicable agencies will be provided to the Zoning Administrator before any permit is granted.

3. Written, technical evidence from a professional engineer that the existing or proposed structure meets structural integrity standards.

4. The installation shall to the extent possible, use materials, colors, textures, and other appropriate techniques to blend the installation with the support structure.

5. Federal Aviation Administration (FAA) hazard determination report and documentation that the request presents no hazard to any airport.

6. If a telecommunications antenna is mounted on a base station, security fencing shall not be required unless the county determines that its safety requirements are not met without it.

7. If the applicant is not the owner of the property, the application shall be accompanied by the written consent of the owner.

C. New wireless telecommunications tower less than 199' in height.

A new wireless telecommunications tower may be permitted by Administrative Permit provided the tower is one hundred ninety-nine feet (199') or less in height provided that:

1. Towers and support structures are not lighted. Lighted towers require a Special Use Permit.

2. In order to apply for a new telecommunications tower, the applicant must demonstrate that no existing telecommunications tower or base station can be utilized to reasonably achieve the applicant's radio frequency coverage objectives.

3. The location (latitude and longitude), structure height, name, address, and telephone number of the structure owner of all potential collocatable structures within a three (3) mile radius of the proposed structure, and written discussion and documentation of why those opportunities were rejected.

4. Propagation predictions and coverage objective from a committed carrier including hand-off sites.

5. No telecommunications tower may be approved and no building permit issued until the first telecommunications service provider is identified.

6. Eight (8) copies of a wireless facilities plan are submitted meeting the requirements of ARTICLE LXVII, "Site Plan Review" of this chapter, including latitude and longitude, and a description of the lot lines, location of the proposed tower showing setbacks, location of adjacent dwellings and structures, separation distances, site elevation view showing the height of the tower does not exceed one hundred ninety-nine feet (199'), the location and height of the proposed antennas, compound details, landscaping, screening, access, parking, and security.

7. Towers and support structures shall be visually as innocuous as possible and maintain a galvanized steel finish unless otherwise required by the Federal Aviation Administration (FAA) or the Zoning Administrator. Antennas shall be of a neutral, nonreflective color with no logos. The design of accessory structures and equipment shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facilities with the natural setting. (Ord. 9/28/11)

8. Towers shall be set back a distance equal to one hundred ten percent (110%) of the height of the structure from all adjacent property lines and a distance equal to one hundred fifty percent (150%) of the height of the structure from any dwelling. Setbacks for telecommunications towers shall be measured from the base of the structure to the property line of the parcel on which it is located and to the nearest corner of the off-site structure, as applicable. Setback requirements shall not preclude the construction of habitable buildings on adjacent parcels following the construction of the structure.

9. Wireless telecommunications towers and equipment shall meet all setback requirements for primary structures for the zoning district in which the telecommunications facility is located.

10. All towers or other support structures will be designed to collapse within the lot lines in case of structure failure as the result of various hazards including high wind.

11. Written, technical evidence from a professional engineer that the existing or proposed structure meets structural integrity standards.

12. Wireless telecommunications tower facilities shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device unless determined by the County not to be warranted.

13. Monopoles and other single-pole structures, standing alone, shall be secured by anti-climbing devices.

14. Collocation space on new telecommunications towers shall be reasonably available to other telecommunication service providers including limited facilities of the County and its agencies.

15. All recommendations from the consultant must be met. If the applicant cannot meet all recommendations from the consultant, they may apply for a Special Use Permit.

16. Approval for a highway entrance can be obtained from the Virginia Department of Transportation.

17. Federal Aviation Administration (FAA) hazard determination report and documentation that the request presents no hazard to any airport.

18. National Environmental Policy Act of 1969 (NEPA) report.

19. Report describing the impact on historic resources prepared in accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA). This report should be accompanied by written comment by the state historic preservation office.

20. Color photo simulations showing to scale representations of the proposed tower and associated facilities as it would appear viewed from the closest residential property or properties and from adjacent roadways.

21. No signs other than those listed below may be placed on the tower or other components comprising the wireless telecommunications facility unless required by the Federal Communications Commission (FCC):

a. A sign is required displaying the facility owner's name, address, Federal Communications Commission (FCC) antenna support registration number and emergency contact phone number. The sign shall not exceed four square feet (4 sq. ft.) in size and shall be located on the security fence or other approved location.

b. Signs warning of electromagnetic energy emissions shall be posted at wireless telecommunication facilities pursuant to Federal Communications Commission (FCC) regulations

22. No advertising of any type may be placed on the tower or other components comprising the wireless telecommunications facility unless the advertising was pre-existing on an alternative telecommunication structure.

23. Notification of adjoining property owners. Upon receipt of an application for an Administrative Permit for the construction of a new wireless telecommunications tower, the Zoning Administrator shall send by first class mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.

a. Action if objection received.

If written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, the application shall be denied, and the applicant advised that the requested facility may be constructed or placed only upon the approval of a Special Use Permit by the board of zoning appeals.

b. Action if no objection received.

If no written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, and the applicant meets all other requirements of this section, the Zoning Administrator may approve the Administrative Permit.

24. If the applicant is not the owner of the property, the application shall be accompanied by the written consent of the owner.

§ 25-68.5. Uses permitted by special use permit.

The uses listed in this section shall be permitted within the General Agriculture, General Business, and General Industrial zoning districts only upon the issuance of a Special Use Permit by the board of zoning appeals pursuant to the provisions of ARTICLE LVIII of this chapter.

A. General standards applicable to all Special Use Permits.

No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:

1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.

2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.

B. Wireless telecommunications facilities.

New wireless telecommunication towers or base stations over one hundred ninety-nine feet (199'), new towers or base stations that are to be lighted or existing towers or base stations that will add new lighting, existing facilities expanded higher than one hundred ninety-nine feet (199'), existing facilities where a collocation or expansion would result in a substantial change to the facility, facilities otherwise permitted by Administrative Permit but where objections have been received, and facilities where setback requirements cannot be met or the recommendations of the consultant cannot be met may be permitted by Special Use Permit provided that: (Ord. 09/28/11)

1. In order to apply for a Special Use Permit for a new wireless telecommunications facility, the applicant must demonstrate that no existing telecommunication tower or base station can be utilized to reasonably achieve the applicant's radio frequency coverage objectives.

2. The location (latitude and longitude), structure height, name, address, and telephone number of the structure owner of all potential collocatable structures within a three-mile radius of the proposed structure, and written discussion and documentation of why those opportunities were rejected.

3. Propagation predictions and coverage objective from a committed carrier including hand-off sites.

4. No wireless telecommunications facility may be approved and no building permit issued until the first telecommunications service provider is identified.

5. Eight (8) copies of a wireless telecommunications facilities plan are submitted meeting the requirements of ARTICLE LXVII, "Site Plan Review" of this chapter, including latitude and longitude, and a description of the lot lines, location of the proposed structure showing setbacks, location of adjacent dwellings and structures, separation distances, site elevation view with the height of the structure showing the location and height of the proposed antennas, compound details, landscaping, screening, access, parking, and security.

6. Towers and base stations shall be visually as innocuous as possible and maintain a galvanized steel finish unless otherwise required by the Federal Aviation Administration (FAA) or the board of zoning appeals. Antennas shall be of a neutral, nonreflective color with no logos. The design of accessory structures and equipment shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facilities with the natural setting. (Ord. 09/28/11)

7. Towers and base stations shall be set back a distance equal to one hundred ten percent (110%) of the height of the structure from all adjacent property lines and a distance equal to one hundred fifty percent (150%) of the height of the structure from any dwelling unless the board of zoning appeals finds that a lesser setback will adequately protect neighboring properties. Setbacks for towers and base stations shall be measured from the base of the structure to the property line of the parcel on which it is located and to the nearest corner of the off-site structure, as applicable. Setback requirements shall not preclude the construction of habitable buildings on adjacent parcels following the construction of the structure. (Ord. 09/28/11)

8. Wireless telecommunications facilities shall meet all setback requirements for primary structures for the zoning district in which the telecommunications facility is located.

9. All towers or base stations will be designed to collapse within the lot lines in case of structure failure as the result of various hazards including high wind.

10. Written, technical evidence from a professional engineer that the existing or proposed structure meets structural integrity standards.

11. Towers and base stations shall not be artificially lighted unless required by the Federal Aviation Administration (FAA).

12. Wireless telecommunications facilities shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device unless determined by the county not to be warranted.

13. Monopoles and other single-pole structures, standing alone, shall be secured by anti-climbing devices.

14. Collocation space on new wireless telecommunications facilities shall be reasonably available to other telecommunication service providers including limited facilities of the County and its agencies.

15. Approval for a highway entrance can be obtained from the Virginia Department of Transportation.

16. Federal Aviation Administration (FAA) hazard determination report and documentation that the request presents no hazard to any airport.

17. Federal Communications Commission (FCC) environmental compliance report prepared in accordance with the National Environmental Policy Act of 1969 (NEPA).

18. Report describing the impact on historic resources prepared in accordance with Section 106 of the National Historic Preservation Act of 1966 (NHPA). This report should be accompanied by written comment by the state historic preservation office.

19. Color photo simulations showing to scale representations of the proposed structure and associated facilities as it would appear viewed from the closest residential property or properties and from adjacent roadways.

20. No signs other than those listed below may be placed on a tower or other components comprising the wireless telecommunications facility unless required by the Federal Communications Commission (FCC):

a. A sign is required displaying the facility owner's name, address, Federal Communications Commission (FCC) antenna support registration number and emergency contact phone number. The sign shall not exceed four square feet (4 sq. ft.) in size and shall be located on the security fence or other approved location.

b. Signs warning of electromagnetic energy emissions shall be posted at wireless telecommunication facilities pursuant to Federal Communications Commission (FCC) regulations.

21. No advertising of any type may be placed on a tower or other components comprising the wireless telecommunications facility unless the advertising was pre-existing on a base station structure.

22. A balloon test may be required by the board of zoning appeals. The applicant shall be responsible for costs associated with the public advertisement of such test.

23. If the applicant is not the owner of the property, the application shall be accompanied by the written consent of the owner.

§ 25-68.6. Landscaping requirements.

The following requirements for the planting and maintenance of landscaping surrounding wireless telecommunications facilities shall be met.

A. Wireless telecommunications facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings, equipment, and security fence from the view of adjacent property. The standard buffer shall consist of a double row of six foot (6') high staggered evergreen trees planted ten foot (10') on center outside the perimeter of the fenced compound. The applicant shall propose an evergreen plant species indigenous to the region.

B. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as telecommunications facilities sited on large, wooded lots, natural growth around the property perimeter may be determined by the County to be a sufficient buffer such that additional landscaping is not warranted.

C. The permittee is responsible for maintaining all plant material in a healthy condition. Any replacement plants shall be consistent with existing plantings.

§25-68.7. Bonding.

Prior to the issuance of a building permit for a wireless telecommunications facility, the applicant shall:

A. Submit to the Zoning Administrator an itemized cost estimate of the work to be done to completely remove the entire telecommunications facility including the concrete pad plus twenty-five percent (25%) of said estimated costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities.

B. Submit a bond, irrevocable Letter of Credit, or other appropriate surety acceptable to the County in the amount of the estimate as approved by the Zoning Administrator which shall:

1. Secure the cost of removing the facility and restoring the site to its original condition to the extent reasonably possible.
2. Include a mechanism for a Cost of Living Adjustment after ten (10) and fifteen (15) years.

C. The applicant will ensure the bond shall remain in effect until the Community Development Department has inspected the site and verified that the wireless telecommunications facility and equipment has been removed and the site restored. At which time the Community Development Department shall promptly release the bond.

§25-68.8. Removal, maintenance and safety.

A. The applicant shall maintain the wireless telecommunications facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and tower or base station structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present. The project owner shall be responsible for the cost of maintaining the wireless telecommunications facility and access road if present, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

B. Any wireless telecommunications facility that is found to be unsafe by the building official shall be repaired by the owner to meet federal, state, and local safety standards or disassembled and completely removed, including the concrete pad, within one hundred eighty (180) days. Any wireless telecommunications facility that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned and the owner of the system shall completely remove the wireless telecommunications facility within one hundred eighty (180) days of receipt of notice from the County instructing the owner to remove the facility.

C. The applicant shall notify the Augusta County Community Development Department within thirty (30) days of the date the wireless telecommunications facility is no longer used for telecommunications purposes. The tower or base station shall be disassembled and completely removed, including the concrete pad and all equipment, from the site within one hundred eighty (180) days of the date the facility is no longer used for telecommunications purposes.

§ 25-68.9. Federal and state requirements.

Wireless telecommunications facilities shall meet or exceed all applicable federal and state standards and regulations set forth by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and other agencies with the authority to regulate such facilities. If such standards and regulations are changed, then the owners and operators of the wireless telecommunications facilities governed by this division shall bring such telecommunications facilities into compliance as required. Failure to comply with federal and state standards and regulations shall constitute grounds for condemnation and removal of the noncompliant facilities by the county at the owner's or operator's expense.

§ 25-68.10. Revocation of Special Use Permits.

All Special Use Permits are subject to and conditioned upon compliance with any applicable federal, state, or local licensing or regulatory requirements, and may be revoked upon failure to so comply.

Ord. 2/10/10; 6/22/16